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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/465,607 12/17/99 KEISER

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TM02/0912

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EXAMINER
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POINVIL, F	
ART UNIT	PAPER NUMBER

2164  
DATE MAILED: 09/12/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

TS

# Office Action Summary

Application No.

09/465,607

Applicant(s)

Kelser et al

Examiner

Frantzy Polnvil

Art Unit

2164



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 25, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al (US Patent No. 5,724,524).

Claims 1-22 recite well known features or process when trading a plurality of financial instruments over the Internet. The steps involve receiving a first order to buy a derivative financial instrument, receiving a second order to sell the derivative financial instrument and executing a trade at a set market price. Setting a market price is usually based on many criteria such as revenues and intangible assets such as copyrights and patents. The market price per share may be compared to its book value per share in determining how much above its real value the company is selling. Applicant is also directed to column 3, lines 5-25, column 4, line 53 to column 6, line 39.

The examiner notes that the claimed invention is directed to known methods of trading derivative financial instruments over a network. The difference between the claimed invention and the system of Hunt et al. is that the derivative instrument represents a movie corresponding to

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a stock and a movie talent corresponding to a bond for trading over the network. The examiner notes that many of the securities traded over the network are associated to different types of securities such as biotech, pharmaceutical, technology or utilities stocks and other types of bonds or carrier space.

The Examiner notes that Hunt et al includes a storage and processing function as does the claimed invention and would produce the same result with the exception that different forms or types of data are being claimed. The Examiner notes that in memory, data is data and the type of data does not affect the functioning of systems having similar data processing logic. See in re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 f.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to represent the derivative financial instruments as corresponding to any type financial data or items or data of value because such data does not functionally relate to the steps in the claimed method. It does not follow that a new and unobvious functional relationship exists between the data structure and the machine read-able medium or claimed system. Thus, the subjective interpretation of the data does not patentably distinguish the claimed invention.

3.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil, whose telephone number is

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(703) 305-9779. The examiner can normally be reached on Monday through Thursday from 7:30 AM to 6:00 PM.

The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FP

05Sep01

  
**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 2164**